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November 16, 2018

Via ECF

Honorable Lois Bloom, U.S.M.J.
U. S. District Court for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: *Steven B. Barger v. First Data Corporation et al.*
Civil Case No. 1:17-cv-4869**

Dear Judge Bloom:

As directed by the Court on October 16, 2018, please accept this letter as Defendants' status report on the non-party and expert depositions. The three non-party depositions include: (1) Julie Kelly; (2) Phillip Morgan; and (3) Grant Barger. Julie Kelly was deposed on October 15, 2018. The parties' expert witnesses were deposed on October 30, 2018.

Defendants served subpoenas on Phillip Morgan and Grant Barger directing them to appear for depositions on September 17, 2018, in Birmingham, Alabama. Prior to September 17, 2018, Defendants attempted to confirm that the witnesses were available on that date, and if not, discuss alternative dates. Defendants did not receive a response confirming their attendance. Instead, on Friday, September 14, 2018, Grant Barger, appearing *pro se* on behalf of himself and Morgan, filed a Motion to Quash and for a Protective Order in the United States District Court for the Northern District of Alabama styled as *Grant Barger v. Saul Ewing Arnstein & Lehr and Gary Eidelman*, Case No. 2:18-mc-01491-KOB, objecting to being deposed.¹

Defendants filed a Motion to Compel the depositions of Grant Barger and Morgan in the United States District Court for the Northern District of Alabama. *See Barger v. First Data Corporation et al.*, Case No. 2:18-mc-01569-KOB. The matter has been assigned to Chief Judge Karon O. Bowdre. Grant Barger opposed Defendants' Motion and filed a Motion to Quash and for a Protective Order. On October 22, 2018, Grant Barger filed a (1) Motion for Sanctions and (2) an Objection to Notice of Correction and Motion for Sanctions. The Motion to Compel, Motion to Quash and for a Protective Order, Motion for Sanctions, and Objection to Notice of Correction and Motion for Sanctions are fully briefed and submitted. Defendants are hopeful that

¹ The Motion to Quash Grant Barger initially opened on September 14, 2018, was closed for procedural reasons.

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Judge Bowdre will rule on the outstanding motions promptly.

Please advise if the Court would like Defendants to provide another status report.

Respectfully submitted,

/s/ Gary B. Eidelman
Gary B. Eidelman

cc: Counsel of Record (via ECF)